



Deliveroo's submission to the Select Senate Committee Inquiry into Job Security - response to the Interim Report

1. Introduction

Deliveroo welcomes the opportunity to provide a submission in response to the Interim Report which was released by the Select Committee in June 2021.

As a key participant in the Inquiry, we have been actively listening to the views shared by many of the other participants and noting the diversity of views expressed.

Our key position remains that the opportunities Deliveroo provides to food delivery workers (riders) does not equate to either insecure or precarious work. Deliveroo provides self-employed people with opportunities to complete the delivery of orders of food at times suited to them, their other work or responsibilities, and lifestyle priorities. That is, it is flexible work as opposed to being insecure or precarious.

We do acknowledge, however, that the intent of the Committee is to ensure gig workers, such as riders, can access the protections that those in traditional forms of work take for granted. To that end, we have the same intent in mind, however we believe there is a different pathway that not only establishes a framework for ensuring riders can access these benefits, but also ensures they retain the flexibility and independence they so highly value.

Deliveroo's 10,000 riders in Australia tell us very clearly what they want: the flexibility to be self-employed and be their own boss. At the same time, Deliveroo is committed to providing protections that are congruent with the nature of self-employment.

In the months since we appeared at the Inquiry hearing in Sydney in April, we have reflected on what would be the most meaningful outcome that would assist in giving riders the best access to security while retaining their self-employed status.

To that end, our submission outlines a synthesised view of how protections can be provided without compromising flexibility, and explains why state-based workers compensation schemes are not a suitable or appropriate application of insurance coverage to protect riders in the event of an injury.

2. About Deliveroo

Deliveroo was founded in 2013 and has been present in Australia since 2015. For more than 13,000 restaurant partners in Australia in 15 cities we provide an opportunity to reach new customers, increase revenues and improve profitability. A major study by Capital Economics, an independent economic consultancy, revealed in 2020 the significant benefits Deliveroo brings to the restaurant industry in Australia. The study shows that delivery services like Deliveroo helped protect 38,000 jobs in the Australian hospitality sector during the national pandemic from April to June last year and supported \$1bn in turnover. Further, the study found that Deliveroo supports 12,000 jobs in the hospitality sector.

3. We offer a popular form of self-employed work for our 10,000 riders

Flexibility is the overwhelming reason why more than 10,000 riders choose to work with us. There are very few barriers to entry and riders have the opportunity to be their own boss. In the latest rider



satisfaction survey, riders scored flexibility 87% (8.68/10), which was the top reason why riders say they ride with the platform.

The key features of working as a self-employed rider with Deliveroo are:

- riders are paid per order delivered
- there is no obligation to work a certain number of hours, or even at all
- there is no obligation for the riders to inform upfront when they want to work and when they will work, when they are taking a moment off or when they wish to work more regularly
- riders work with multiple companies, often working across multiple platforms and other clients at the same time (called multi-apping)
- riders have no fixed hours, they pick their own times to go online
- while online, riders are under no obligation to accept work and can pick the orders that best suit them, rejecting any orders that don't suit them without any repercussion
- even after accepting an order, a rider can "unassign" from the order at any time
- riders choose where they work
- riders can choose not to undertake delivery services personally, and instead delegate their account to others who perform the deliveries on their behalf.

The majority (75%) of riders in Australia are students - more than a third (35%) are completing post graduate degrees - and this form of work enables them to earn an income in the periods of time they have free between lectures and assignment deadlines. Many riders also have caring responsibilities for children, or are simply seeking some extra cash alongside their usual work.

The average tenure for someone working on our platform is only 44 weeks. This is a hugely popular type of work and we currently have around 1,900 riders apply to work with us each week. Riders often maximise their earnings by delivering for multiple platforms in the period of time they have available. They are also able to delegate their accounts and many riders take an entrepreneurial approach by entering into commercial arrangements with others to perform delivery services on their account.

4. We are committed to offering protections alongside this flexible work and believe food delivery platforms are best placed to provide the right insurance coverage

Within the frame of self-employment, Deliveroo has always believed it is important to offer riders security and protection. That is why Deliveroo was one of the first platforms to offer all riders free income protection and personal injury insurance - with cover for medical expenses and loss of earnings if they are injured while completing deliveries with us. We also offer free public liability insurance, so riders are protected in case something goes wrong in the course of making a delivery.

From this month, insurance cover for riders working with Deliveroo will include earnings protection for those who can't work due to illness and payments for new parents. This insurance will apply to riders on all vehicle types. Earnings support for riders who are unwell will cover them for periods exceeding 7 days, upon receipt of a medical certificate signed by a doctor to claim under the insurance. Riders will get \$50 per day for up to 15 days, including the initial 7 day wait period. Riders need to have completed at least 30 orders in the previous 8 weeks to be eligible for this payment.

The insurance payments for new parents will give riders a lump sum of \$1,000 on the birth or adoption of a child. Riders need to have joined Deliveroo and completed their first delivery 6 months before the due date, and have completed 60 orders within an 8 week period. Pregnant women who may find it more difficult to complete deliveries immediately before the due date are required to complete 60 orders within the previous 6 months.



For more information on our insurance policy, please visit:
<https://deliveroo.marshadvantage.com.au/group-personal>

We disagree with Recommendation 6 for the reasons outlined below, and believe that our coverage is bespoke to riders' needs, while the current workers' compensation schemes are not fit for purpose.

As we outlined in our original submission, in 2019 we investigated whether state based workers compensation schemes were the best form of insurance for the type of work that food delivery riders do, and we came to the conclusion they weren't for a number of reasons:

- Food delivery riders are not employees, and there were a number of instances where claims were rejected by workers' compensation insurers in different States and Territories, which was of great concern to us.
- Many riders delegate their account to others who use it to conduct deliveries, and these delegates are not covered by workers' compensation.
- Many riders multi-app or work in other jobs alongside providing services to Deliveroo. Some workers' compensation schemes are not designed to provide insurance to an individual (contractor/sole trader) whose Deliveroo's earnings are only a portion of their overall income.
- Workers' compensation only covers the time a rider is delivering an order, whereas our insurance covers all time logged in, including up to an hour after their last delivery to ensure riders are protected as they travel home.

The policy we selected is broadly equivalent, and in some instances better than, the state-based workers' compensation schemes.

From a business perspective, harmonisation across state borders is also important, and there is a small percentage of riders who move between states. It is important they are covered no matter which town, city or state they are working in.

As we stated in our submission to the New South Wales State Insurance Regulatory Authority (SIRA) consultation on *Personal injury insurance arrangements for food delivery riders in the gig economy*, anecdotally, the most common types of incidents are slips or falls from a bike or scooter (e.g. when crossing tram tracks) leading to cuts and bruises; vehicle rear-ending leading to cuts, bruises and/or fractures; and assault. Generally, the feedback on our policy is positive and riders tell us that income protection is the most important component.

It is vital that riders have confidence that when they log onto the Deliveroo rider app and carry out deliveries they have insurance in place that covers the specific risks of their work and there is no confusion about what will be covered by the insurance. At Deliveroo, we promote awareness of the cover, both at onboarding when riders first join the platform and with information on our bespoke rider website (see [here](#)), including the link to the insurer's own site where riders can find the full detail of the policy and information on how to make a claim (see [here](#)). In addition, our rider support team plays an important role signposting riders to the correct place online to be able to make a claim in the event of an accident.

Platform managed and funded insurance allows for a simple process for riders to follow. Existing channels of communication between individual platforms and the riders that use them means key information about the insurance can be shared with riders. This approach reduces red tape and makes the insurance easily accessible for riders in the event that they need to make a claim.



The National Food Delivery Platform Safety Principles, launched in July 2021, has a specific principle regarding insurance coverage for riders. It states:

3.6 Insurance coverage: *Provide free, automatic insurance protections that cover delivery workers for accidental injuries that arise while delivering on food delivery platforms.*

As a signatory to the Principles we believe this is a mandatory inclusion, and all co-signatories have likewise committed to this principle.

5. We would like to see new legislation to better codify these protections

At the moment, courts and tribunals make case by case determinations on whether a rider is a self-employed contractor or an employee, based on a number of different criteria identified through case law. This is known as multifactorial analysis and is highly subjective and uncertain for businesses and workers, who can rarely be certain that the type of relationship they want to create will be found to constitute that type of relationship at law.

We would like to go further in offering benefits to riders, but are constrained by the law. Our 'ask' is for future governments to create new legislation, which makes clear that the provision of protections and security to riders does not impact on their self-employed status. There are many potential options for structuring this legislation, and we are primarily interested in outcomes rather than exact methods. We would like clarity on which features of a relationship between platform and rider should be used to determine whether they are self-employed or an employee.

One option would be to introduce legislation that provides clarity on which features of a relationship between platform and rider should be assessed to determine whether they are self-employed or an employee. If this option is chosen, to provide greater certainty for riders and the food delivery platforms, we ask that multifactorial analysis be limited by legislation to consideration of:

- (a) the agreed contractual terms;
- (b) the level of control exercised by the platform over hours and location of work;
- (c) whether the rider is obliged to provide personal service, or is able to delegate; and
- (d) whether the rider is permitted to provide services to others.

Taking this approach would allow businesses such as Deliveroo to provide benefits to independent contractors without creating a risk of having the relationship characterised as one of employment. The legislation could make clear that the provision of insurance and benefits cannot be taken into account by a court when conducting a multifactorial analysis.

We believe this is a stronger, more pragmatic solution than Recommendations 7 and 10.

6. Managing disputes is important, and one that the industry can manage with the right frameworks in place

The relationship we have with riders is paramount to our success and ability to operate. To that end, we have a dedicated rider engagement team who regularly survey riders to ensure their concerns are understood and addressed. We know that the relationship is strong, because riders currently rate their satisfaction riding with Deliveroo at 82%, or 8.23/10.

We receive queries and concerns from riders on a regular basis and have in place a robust process for managing them, so that the rider's concerns are acknowledged and the situation is investigated.



These complaints are handled by our rider support team, with a focus on resolving any issues quickly and with procedural fairness. We therefore don't believe there is a need for third party involvement.

All queries disputing any process or decision made by Deliveroo are prioritised and managed by our Australian Rider Support team. All parties involved will be contacted to ensure full understanding of the situation before any final decision is made. All disputes relating to ending a rider's contract are escalated to management for careful consideration.

The underlying cause of the handful of major disputes between riders and food delivery platforms has been the lack of clarity on their status as independent contractors.

The first step would be to get clarity on the contract itself, hence our position on firming up the multi-factorial test on what would be included for analysis and what would be excluded, to provide better certainty for all parties.

This would mitigate the need for Recommendations 9 & 11.

The *National Food Delivery Platforms Safety Principles* is an excellent example of the industry coming together to establish guiding principles on safety that will keep riders safe on our roads. A similar solution could be explored to create a public document that focuses on processes and procedures for respectful relationships and how to manage disagreements when they arise.

7. Employing riders would be hugely unpopular and create many unintended consequences

The Interim Report proposes under Recommendation 7 that: *The committee recommends that the Australian Government expands the definitions of 'employment' and 'employee' in the Fair Work Act 2009 to capture new and evolving forms of work.*

This is not what Deliveroo's riders want. Riders are making an active choice to be self-employed because the flexibility inherent in the freelance model fits better with the way they tell us they want to work.

Employment would remove the flexibility riders currently have. It would necessitate a minimum 3-4 hour set shifts fixed a week to a fortnight in advance, compulsory attendance for rostered shifts and some form of acceptance, timing and related requirements to ensure satisfactory service levels. To enforce these increased requirements on riders, some form of performance management or disciplinary system would need to be imposed, for example mandating riders to accept and complete certain deliveries. These measures would remove all the flexibility we know riders enjoy and create a new balance of power in the relationship between the platform and the rider.

Employment would make access to work challenging, if not impossible, for some riders who rely upon the flexibility to fit work around their lives and not have to agree to working hours in advance. For example, it would prevent students from working flexibly around lectures, assignments and exams. Similarly, it would prevent those with caring responsibilities from working flexibly around their other commitments. Riders would also be prevented from multi-apping; that is, working with multiple businesses at the same time. This would strip riders of an additional way of maximising their earnings.

The rigidity of an employment model would also mean that we would work with fewer riders in total, because we would need to offer a minimum number of hours or set shifts in advance. This would deprive many riders in Australia of flexible earnings opportunities in any given week.



Beyond our riders, there would be knock-on impacts for Australia's hospitality sector too. With fewer riders, we would be unable to deliver at the same rate and cover the same areas of customers. Without the agile nature of a self-employed rider fleet, we would not be able to meet fluctuations in demand which would mean restaurant sales would be capped by the number of riders working a set shift, restricting restaurant revenues at an already challenging time for the industry where consumers now demand immediate delivery through online platforms. Set shifts are also not flexible enough to meet unexpected, short term spikes in demand. Consumer demand for food delivery is not consistent. It will fluctuate according to the weather, what customers are watching on television and special offers restaurants might provide. That is why a flexible self-employment model, with fee payment per delivery, is vital to the industry.

8. Conclusion

We strongly believe that at the very heart of this debate are the views of the food delivery riders who undertake deliveries from the restaurants to the customer across the country. Riders tell us that overwhelmingly the most important factor in choosing this form of work is the flexibility it affords.

To that end, we believe any changes to legislation needs to reflect this, which is why we believe the best solution is to create new legislation, which makes clear that the provision of protections and security to riders does not impact on their self-employed status, and associated freedoms and flexibility.

We hope our views are taken into account as the Committee considers all responses to the Interim Report. We would be happy to discuss in further detail.